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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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IN THE MATTER OF THE APPLICATION  
OF ARIZONA PUBLIC SERVICE  
COMPANY FOR A HEARING TO  
DETERMINE THE FAIR VALUE OF THE  
UTILITY PROPERTY OF THE COMPANY  
FOR RATEMAKING PURPOSES, TO FIX  
A JUST AND REASONABLE RATE OF  
RETURN THEREON, TO APPROVE  
RATE SCHEDULES DESIGNED TO  
DEVELOP SUCH RETURN.

DOCKET NO. E-01345A-16-0036

IN THE MATTER OF FUEL AND  
PURCHASED POWER PROCUREMENT  
AUDITS FOR ARIZONA PUBLIC  
SERVICE COMPANY.

DOCKET NO. E-01345A-16-0123

REPLY BRIEF  
OF  
ARIZONA INVESTMENT COUNCIL

June 1, 2017

OSBORN  
MALEDON

A PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

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**I. Introduction.**

As explained in AIC's Post-hearing brief, AIC supports the adoption of the APS Settlement Agreement (Settlement) because it is fair, just and in the public interest. The Settlement provisions regarding the Basic Service Charge (BSC), customer rate options, and time-of-use on-peak periods were reached as a result of careful and deliberate negotiations, and should not be modified. APS's R-32 Large TOU (E-32 L) rate should also be adopted as proposed and EFCA's alternative option should be rejected.

This brief primarily rebuts various positions taken by other parties and also re-emphasizes key points that AIC believes are important. It does not address every point or argument originally made in the other parties', or its own, initial closing briefs. AIC relies on its Initial Post Hearing Brief for all points not addressed or modified in this Reply Brief.

**II. The Settlement Agreement should be adopted without modification.**

AIC continues to support the adoption of the Settlement without modification because it represents a practical compromise of the various parties that will benefit APS, its customers, and its shareholders. The broad support for the Settlement reflected in other parties' post-hearing briefs likewise confirms the Settlement should be adopted without modification.<sup>1</sup> Ultimately, the Settlement creates balanced rate designs and rate design options. The rate designs and options allow APS a reasonable opportunity to recover its revenue requirement, mitigate customer bill impacts, provide customers choice, and help modernize the entire rate structure.

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<sup>1</sup> See ConserveAmerica's Opening Brief; Staff's Initial Closing Brief; Initial Post-Hearing Brief of IBEW Locals 387 and 769; Energy Freedom Coalition of America's (EFCA) Post Hearing Brief; Initial Post-Hearing Brief of APS; Solar Energy Industry Association (SEIA) Post-Hearing Brief; VoteSolar's Initial Post-Hearing Brief; Initial Brief of the Arizona Community Action Association (ACAA); Arizona Solar Deployment Alliance (ASDA) Post-Hearing Brief; Post-Hearing Brief of Federal Executive Agencies; Freeport Minerals, Arizonans for Electric Choice and Competition (AECC), Calpine Energy, Constellation New Energy, and Direct Energy Business's Initial Closing Brief; Arizona Utility Ratepayer Alliance (AURA) Closing Brief; and RUCO's Closing Brief.

1 Arguments to modify discrete components of the Settlement should be rejected  
2 because even seemingly small changes could unhinge the delicate balance achieved by  
3 the Settlement. The specific provisions non-signatories, like Southwest Energy  
4 Efficiency Project (SWEEP) and AARP, want to change are either widely supported, or  
5 at least supported within the Settlement as a whole. SWEEP and AARP are advocating  
6 for modifications on behalf of a very small percentage of customers at the expense of the  
7 overall benefits of the Settlement to all customers and APS. The Settlement reached an  
8 equitable balance. No changes to the Basic Service Charge, 90-Day Try-Out Period, or  
9 Time-of-Use Peak Periods should be adopted.

10 **A. The Basic Service Charges are cost based, reasonable, and do not**  
11 **disproportionately affect low income customers.**

12 SWEEP and AARP continue to take issue with the Settlement's Basic Service  
13 Charges (BSC). However, neither party's arguments to decrease the BSC warrant  
14 altering the Settlement at the expense of reducing the total benefit to all ratepayers.

15 SWEEP and AARP claim that the BSC increase from \$8.67 to \$15 for customers  
16 that qualify for the R-Basic Rate is unfair and targets low-income and low-usage  
17 customers disproportionately. *See* AARP's Post-Hearing Brief at 4:4-18 and SWEEP's  
18 Initial Post-Hearing Brief at 6:19-23. However, this argument ignores the overall bill  
19 impacts and benefits that the Settlement's rate designs will have on all residential  
20 customers. APS has approximately 1 million residential customers, but only 180,000 R-  
21 Basic or R-Basic Large customers will see a large increase in their BSC. In contrast,  
22 820,000 customers will see either a decrease, or a very small increase, in their BSC. For  
23 example, 450,000 residential TOU rate customers and 120,000 residential demand rate  
24 customers will see their BSC decrease by \$4 from \$17 to \$13. Additionally,  
25 approximately 250,000 low usage customers who qualify for the R-Basic XS rate will  
26 only see a very small BSC increase from \$8.67 to \$10. *See* Hearing Testimony of  
27 Lockwood, Tr. at 299:22-301:12. Moreover, SWEEP's and AARP's argument overlook  
28

1 that if a customer is concerned about the BSC of one rate design, the customer can  
2 choose from a number of other rate options with a different BSC.

3 **B. The Settlement provides ample rate choices for customers while still**  
4 **furthering the overall goal of rate modernization.**

5 AARP has continuously referred to the rate design options in the Settlement as a  
6 “pick your poison” scheme that takes away customer choice. AARP Closing Brief at  
7 7:1-2. However, under the proposed rate structure, for the first nine months new APS  
8 customers will have seven rate options to choose from: R-Basic XS, R-Basic, R-Basic  
9 Large, TOU-E, R-2, R-3 and R-Tech. APS Settlement Agreement §19.1. After May 1,  
10 2018, new customers will have the same choices, with the R-Basic option becoming  
11 available 90 days after they initiate service. *Id.*

12 In addition, these myriad options make changes that must occur. As discussed  
13 throughout the rate case proceeding, and in AIC’s Initial Closing Brief, how residential  
14 customers consume energy is changing and rate design must be modernized to keep up  
15 with this change. The seven residential rate options agreed to in the Settlement strike a  
16 reasonable balance between customers’ individual interests, customer choice, and the  
17 benefit of moving customers onto more advanced and modern rates. *See* Hearing  
18 Testimony of Lockwood, Tr. at 173:1-3. AARP’s contention that APS lacks respect for  
19 its customers and that customer choice is being stripped away by the Settlement’s rate  
20 design options simply ignores this reality. *See* AARP’s Closing Brief at 8:6-7 and 7:10-  
21 11.

22 **C. Under the Settlement, customers can take advantage of fewer time-of-use**  
23 **on-peak hours and more off-peak holidays.**

24 Non-signatories to the Settlement have criticized the new on-peak hours for the  
25 residential TOU rates (weekdays 3 p.m. – 8 p.m., excluding holidays). They claim this  
26 time is too long for customers to effectively manage their bills. *See* AARP’s Post  
27 Hearing Brief at 12 and SWEEP’s Post-Hearing Brief at 15. However, the majority of  
28 parties support this change. *See* Settlement Direct Testimony of Birmingham at 6;

1 Settlement Direct Testimony of Kobor at 5; and Settlement Direct Testimony of  
2 Vandever at 4. Moreover, the objection from these non-signatories disregards the  
3 objective of a time of use rate design.

4 The purpose of TOU rates is to encourage energy usage when energy supply is  
5 high and prices are low, and encourage less energy use when supply is lower and prices  
6 are higher. *See* Settlement Testimony of Miessner at 11. Current on-peak hours are  
7 either from 9 a.m. to 9 p.m. or noon to 7 p.m.; the new rates therefore provide a  
8 significant reduction in on-peak hours compared to the status quo. *See* Direct Testimony  
9 of Wilde at 12. Moreover, the hours focus on the time of day when demand reduction is  
10 needed most. *See* Hearing Testimony of Miessner at 341:17-21.

11 The on-peak times have been reduced by two to seven hours, providing customers  
12 with more flexibility, not less. Moreover, the 8 p.m. conclusion of the on-peak period is  
13 only one hour later than the current TOU on-peak period, and is one hour earlier, than  
14 the previously grandfathered TOU on-peak period. In addition to shortening the on-peak  
15 times, the rate is more accurate in the time-period it seeks energy use reduction. The  
16 TOU on-peak periods were carefully designed to achieve the stated revenue amount,  
17 properly align the cost of providing service during the on-peak times, and preserve the  
18 economics of rooftop solar – they should remain unmodified in the Settlement.

19  
20 **III. APS's proposed E-32 Large TOU Rate should be adopted.**

21 As discussed in AIC's Initial-Post Hearing Brief (at page 7-8), the E-32 L rate as  
22 proposed by APS should be adopted, and if necessary the adjoining Up-Front Incentive  
23 Pilot Program. The demand ratchet component of the E-32 L rate is a standard rate  
24 design mechanism. It is also a fair rate for all customers because it provides an  
25 important safeguard to ensure that customers with storage, or any other technology, pay  
26 their share of grid costs and do not shift those costs to other customers.



1           **A. The E-32 L rate reflects APS's consistent advocacy for rates that provide**  
2           **clear and accurate price signals, regardless of the type of technology**  
3           **adopted.**

4           In its Post Hearing Brief, EFCA claims that APS has taken inconsistent positions  
5 regarding how rates can incentivize the use of new technologies. EFCA Post Hearing  
6 Brief at 17:13-25. But, APS has been clear from the beginning that a main driver of the  
7 current rate case is to create rates that reflect actual costs while incentivizing customers'  
8 use of technology. The Settlement's rate structure does this. It provides APS flexibility  
9 and should reduce APS's summer peak demand. *See* Direct Testimony of Miessner at  
10 6:5-19. APS's E-32 L rate compliments the Settlement's rate designs.

11           In particular, rather than designing an entire rate around incentivizing energy  
12 storage as EFCA proposes, APS's E-32 L rate focuses on price signals and customer  
13 behavior while being agnostic about the specific type of technology adopted. When  
14 costs are appropriately reflected in rates, as they are in the E-32 L rate, the rate sends a  
15 proper price signal. A customer is then incented to change its behavior to take  
16 advantage of that cost based price signal – for example by installing energy storage to  
17 reduce demand. Rate design should not create an incentive for customers to reduce  
18 demand (or energy usage) one time, but to achieve long term reduction in summertime  
19 peak demand in a predictable and sustainable manner. The E-32 L rate sends the  
20 appropriate price signal to reduce customer demand while also providing an incentive  
21 for customers to adopt storage technology, despite EFCA's claim to the contrary. EFCA  
22 Post Hearing Brief at 4:20-22.

23           **B. EFCA's opposition to the demand ratchet component of the E-32 L rate is**  
24           **motivated by a business model, not customer interest.**

25           EFCA's arguments that the demand ratchet is an impediment to energy storage  
26 and makes customer investment unreasonably risky are self-serving ones designed to  
27 benefit certain companies at the expense of other customers and APS. EFCA represents  
28 third party non-regulated companies who would benefit from a different rate structure,

1 not customers. EFCA argues that customers are deterred from investing in energy  
2 storage because they may not see bill savings during the first year or that one unexpected  
3 or unmitigated surge in demand can set the ratchet higher than expected. However,  
4 those arguments reflect the concerns of the third party business model and the storage  
5 industry's ability to market and sell its product – it is not a concern voiced by any  
6 actual APS customers. There were dozens of intervenors in this rate case, including  
7 customers, or representatives of customers, eligible for the E-32 L class, such as  
8 Arizonans for Electric Choice and Competition and Freeport Minerals Corporation, the  
9 Federal Executive Agencies, IO Data Centers, the Kroger Company, and Wal-Mart  
10 Stores. Many of these customers have taken, or would be taking, power under APS's  
11 proposed rate. Yet none criticized APS's proposal, or supported EFCA's position.  
12 EFCA, an organization that represents private energy storage companies, is alone in its  
13 criticisms of the demand ratchet and APS's proposed E-32 L rate.

14 **C. EFCA's proposed alternative rate option should not be adopted.**

15 In its Closing Brief, EFCA makes a number of arguments in support of its  
16 alternative rate option, including Commission precedent in the TEP Rate Case. It then  
17 presented (for the first time) three modifications to its original proposal to address  
18 potential Commission concern. However, none of EFCA's arguments withstand  
19 scrutiny, nor should its untimely proposed modifications be considered.

20 Although the Commission ordered TEP to implement an optional, non-ratcheted  
21 rate for its large general service customers in future rate cases, it does not follow that the  
22 Commission must require similar treatment for APS. First, no Commission decision  
23 creates binding precedent and each case stands on its own merit. Hearing Testimony of  
24 Abinah, Tr. at 1270:16-17. Second, TEP's and APS's ratchets are not substantially  
25 similar. TEP's ratchet applies to both large and medium general service customers, is  
26 based on the highest demand for the preceding 11 months including non-summer  
27 months, and it applies to non-peak hours. See Hearing Testimony of Miessner, Tr. at  
28 350:2-8. In contrast, the APS ratchet only applies to its equivalent of large general



1 service customers and is only set during the summer month's on-peak period – a much  
2 narrower time frame. The concerns the Commission may have had with TEP's demand  
3 ratchet are not present in APS's E-32 L rate.

4 Second, in an attempt to address concerns raised by APS, EFCA in its Post-  
5 Hearing Brief proposed three modifications to its alternative optional rate: (1) to allow  
6 other energy efficiency mechanisms to qualify for the rate, (2) to set a minimum storage  
7 size of 10 percent of customer's demand, and (3) to subject participants on the rate to the  
8 LFCR. *See* EFCA's Post Hearing Brief at 20-21. Setting aside that the proposed  
9 modifications appear insufficient to address the concerns that APS raised with EFCA's  
10 original proposal, these last-minute changes should be rejected outright for lack of  
11 evidentiary support. Presented for the first time in EFCA's post-hearing brief, no party  
12 had the opportunity to cross examine EFCA or APS regarding the impact of those  
13 changes on participating and non-participating customers or on any other aspect of the  
14 modified rate design. EFCA has the burden of justifying its proposed modifications with  
15 record evidence, which – having made the proposals after the hearing in this matter had  
16 concluded – it simply cannot do.

17 If the Commission decides it is in the public interest to incentive energy storage  
18 for this customer class, AIC recommends the adoption of APS's proposed Up-Front  
19 Incentive Pilot in conjunction with APS's proposed E-23 L rates.

#### 20 21 **IV. Conclusion.**

22 The Settlement results in just and reasonable rates for APS's customers and a  
23 reasonable opportunity for APS to recover its revenue requirement. It should be adopted  
24 without modification because it is fair and in the public interest. Additionally, APS's  
25 proposed E-32 L rate should be approved.

1 RESPECTFULLY SUBMITTED this 1st day of June, 2017.

2  
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